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UNITED STATES OF AMERICA and R.O. ALEX ALARCON

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA and
ALEX ALARCON, Revenue Officer,
Internal Revenue Service,

Petitioners,

v.

JONATHAN A. HUNT,

Respondent.

2:04-mc-269-DFL-GGH

**MAGISTRATE JUDGE'S
CERTIFICATION OF FACTS AND
ORDER TO SHOW CAUSE RE:
CIVIL CONTEMPT UNDER 28
U.S.C. § 636(e)(6)(B)**

Taxpayer: Jonathan A. Hunt

Date: October 13, 2005
Time: 11:00 a.m.
Cttrm: 7 (14th Fl., DFL)

This case came before me on August 25, 2005, on my Order to Show Cause filed July 6, 2005, as modified by Order filed July 15, 2005. Yoshinori H. T. Himel, Assistant United States Attorney, appeared for petitioners, accompanied by petitioner Alex Alarcon. There was no appearance by or for respondent, Jonathan A. Hunt.

CERTIFICATION OF FACTS

I hereby certify, under 28 U.S.C. § 636(e)(6)(B)(iii) and (B) foll. (iii), as follows:

1. By petition filed August 24, 2004, the United States and Revenue Officer Alex Alarcon initiated these proceedings to enforce two IRS summonses issued March 30, 2004, one for tax determination and one for tax collection.

1 2. I issued an Order to Show Cause Re: Tax Summons Enforcement, which was filed
2 September 7, 2004. The Order to Show Cause provided that if the respondent had any
3 defense or opposition to the petition, he must file written opposition, and that only those
4 issues brought into controversy by the responsive pleadings and supported by affidavit would
5 be considered.

6 3. Respondent, Jonathan A. Hunt, was personally served with the petition and order to
7 show cause.

8 4. Because respondent Hunt filed no written opposition to summons enforcement, the
9 matter was submitted on the papers and I issued Findings and Recommendations Re: I.R.S.
10 Summons Enforcement filed October 28, 2004.

11 5. Upon the findings and recommendations, Chief Judge Levi issued a final summons
12 enforcement Order, filed November 29, 2004, ordering respondent Hunt to comply with the
13 summonses.

14 6. Thereafter, by letter dated March 28, 2005, petitioner Alarcon set an appointment
15 for respondent Hunt to appear before him on April 13, 2005 to comply with the summonses.

16 7. Although the Clerk appears not to have mailed a copy of the summons enforcement
17 Order to respondent, petitioner Alarcon's letter, exhibit 1 to the petition re: contempt, enclosed
18 a copy of the summonses and the summons enforcement Order and summarized their
19 requirements. The United States also mailed a copy of the Order to respondent when it served
20 a proposed version of this certification and order to show cause on August 29, 2005.

21 8. Respondent Hunt failed to appear before Revenue Officer Alarcon. His failure to
22 comply with the summons enforcement Order filed November 29, 2004 continues to the
23 present.

24 9. By Order to Show Cause Re: Civil Contempt, filed July 6, 2005, I ordered
25 respondent Hunt to file a written response regarding contempt, and to appear before me for
26 hearing on July 28, 2005, later continued to August 25, 2005, on pain of contempt. No
27 response was ever filed, and no appearance was made by respondent Hunt.
28

10. Respondent, Jonathan A. Hunt, failed to obey the Order enforcing IRS summonses, filed November 29, 2004, by failing to appear and failing to comply with the IRS summonses.

11. Respondent, Jonathan A. Hunt, failed to obey the Order to Show Cause Re: Civil Contempt, filed July 6, 2005, by failing to respond in writing and failing to appear at the hearing held August 25, 2005.

It is SO CERTIFIED.

This file is accordingly referred to The Honorable David F. Levi, Chief United States District Judge, pursuant to 28 U.S.C. 636(e)(6)(B), for trial of the issues of civil contempt and coercive incarceration or other relief.

ORDER TO SHOW CAUSE

Respondent, Jonathan A. Hunt, shall appear on October 13, 2005, at 11:00 a.m., before United States District Judge David F. Levi, in Courtroom 7 on the 14th floor of the United States Courthouse, at 501 I Street, Sacramento, California, then and there to show why he should not be held in contempt, be confined in jail and be subjected to coercive and compensatory monetary sanctions, until he complies with the summons enforcement Order filed November 29, 2004. He is hereby notified that an indigent witness is entitled to appointed counsel when a civil contempt proceeding carries the possibility of incarceration. Matter of Grand Jury Proceedings (Kang), 468 F.2d 1368, 1369 (9th Cir. 1972).

It is SO ORDERED.

DATED: Sept. 28, 2005


GREGORY G. HOLLOWES

UNITED STATES MAGISTRATE JUDGE